

Message Text

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TO SECSTATE WASHDC IMMEDIATE 9938

C O N F I D E N T I A L LUSAKA 0552

EXDIS

EO 11652: GDS

TAGS: EFIN

SUBJECT: TAW

REF: LUSAKA 536 AND 511

1. TAW VICE PRESIDENT FRANK SAVAGE AND LAWYERS ALAN DYNNER AND JOSEPH BRIGATTI CALLED ON CHARGE MARCH 27 TO REPORT ON MEETING CALLED THAT AFTERNOON BY SOLICITOR GENERAL, MISS LOMBE CHIBESAKUNDA. OTHERS PRESENT ON ZAMBIAN SIDE WERE MINTRANSPORT REP IKAFI, MINLEGAL AFFAIRS REP CHAILA, AND LITTLE OF CONTINGENCY SECRETARIAT. NOTABLY ABSENT WAS SECRETARY TO CABINET CHISANGA. TAW PRESIDENT TOM WOOD ALSO PARTICIPATED. RESULTS WERE "OF NO CONSEQUENCE," IN TAW'S OPINION. BOTH SIDES REITERATED LEGAL POSITIONS, WITH GRZ CLAIMING IT SUFFERED DAMAGES OF K100 MILLION THRU TAW "NONPERFORMANCE." TAW REPS REFUSED TO DISCUSS DAMAGES UNTIL ISSUE OF LIABILITY SETTLED, I.E., WHO BREACHED CONTRACT AND THEREFORE LIABLE TO PAY DAMAGES. GRZ WOULD CONCEDE ONLY THAT QUESTION OF LIABILITY WAS POINT OF LAW.

2. TAW REPS BELIEVE GRZ EFFORT HAVE DISCUSSION OF DAMAGES AND ITS ASSERTION OF K100 MILLION CLAIM DESIGNED TEST TAW FIRMNESS AND DISCOVER WHETHER TAW WOULD CONSIDER SCALING DOWN OWN 26 MILLION DOLLAR DAMAGE CLAIM TO FIGURE WITH WHICH GRZ COULD LIVE.

3. REGARDING NEWSPAPER ARTICLE REPORTED LUSAKA 536, TAW
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REPS SPECULATED IT LOW-LEVEL GRZ "PLANT" PICKED UP BY

LONRHO-CONTROLLED PAPER AND DID NOT REFLECT GRZ POLICY WHICH NOT YET DETERMINED. WHILE ARTICLE COULD MAKE REINSTATEMENT MORE DIFFICULT FOR GRZ, IT COULD ALSO BE SEEN AS LAST "DESPERATE MEASURE" BY TAW OPPONENTS WHO, REALIZING THEIR FIGHT WAS LOST, SOUGHT TO GET TAW TO MAKE HARD-LINE RESPONSE, LEAVING GRZ NO ALTERNATIVE BUT STICK TO CONTRACT CANCELLATION WHATEVER THE COST. IN ORDER AVOID UNDERMINING THEIR SUPPORTERS, TAW REPS SAID THEY HAD NO INTENTION OF RESPONDING TO ARTICLE UNTIL REINSTATEMENT CLEARLY IS NO LONGER POSSIBLE. NO MENTION MADE OF ARTICLE BY EITHER SIDE IN MARCH 27 MEETING WITH CHIBESAKUNDA.

4. REFERRING TO DAY-LONG GRZ DISCUSSIONS "AT HIGHER LEVEL THAN SOLICITOR GENERAL," TAW REPS WERE STILL HOPEFUL REINSTATEMENT WOULD BE AGREED TO TODAY. WHILE TAW WOULD NOW INSIST ON FORMAL AMENDMENT EXTENDING DELIVERY DATE AND PROVIDING FOR DAMAGES INCURRED AS RESULT CANCELLATION LETTER, GM AND OTHER SUPPLIERS HAD AGREED ALLOW ONE ADDITIONAL WEEK FOR TAW COMPLETE PAPERWORK, PROVIDED GRZ CLEARLY STATES DESIRE REINSTATE CONTRACT.

5. WHILE CONTENTION PROBABLY STILL GOING ON WITHIN GRZ WE INCLINED BELIEVE ODDS ARE AGAINST REINSTATEMENT OF CONTRACT. NEW STRAW IN WIND IS MODERATE BUT FIRM MARCH 28 EDITORIAL IN TIMES OF ZAMBIA COMMENDING CANCELLATION OF TAW CONTRACT. CITING BACKLOG IN DAR PORT AND HOLDING TAW RESPONSIBLE, PAPER SAID "PEOPLE OF ZAMBIA" WOULD "RALLY BEHIND THE PARTY AND GOVERNMENT IN WHATEVER THEY DO TO FACILITATE THE QUICK FLOW OF SUPPLIES, INCLUDING THE SCRAPPING OF DEAD CONTRACTS." THOUGH THERE HAVE BEEN EXCEPTIONS TO THE RULE, NORMALLY SUCH EDITORIAL WOULD HAVE BEEN INSPIRED BY OR APPROVED AT HIGH GRZ LEVEL.
NELSON

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